

Docket No. 95-004M  
PATENT APPLICATION

I certify that on the date specified below this correspondence is being transmitted by facsimile to (703) 872-9306.

4/28/04

Conrad O. Gardner

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Conrad O. Gardner Group Art Unit: 3618  
Application No.: 08/896,514 Examiner: A. Lerner  
Filing Date: 06/23/97 Docket No.: 95-004M  
Date:

For: Extended Range Motor Vehicle Having Ambient Pollution Processing

Via Facsimile: (703) 872-9306  
Examiner A. Lerner  
Art Unit 3618

Sir:

Attached for your reference are copies of the following documents, including the Reply Brief currently mailed to the Patent Office

1. Reply Brief
2. Request for Oral Hearing
3. Amendment Withdrawing Terminal Disclaimer
4. Declaration Regarding Pioneer Status
5. Associate Power of Attorney

Respectfully submitted,

  
Conrad O. Gardner

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Seattle, WA 98103

1

95-004M Fax to Examiner

Docket No. 95-004M  
PATENT APPLICATION

I certify that on the date specified below this correspondence is being mailed as first-class mail, postage prepaid, addressed to Board of Patent Appeals and Interferences, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

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Board of Patent Appeals and Interferences  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

DECLARATION UNDER 37 CFR 1.195  
REGARDING PIONEER STATUS

Sir:

This declaration regarding the system disclosed in the present application and parent continuation patents has gained "pioneer status due to the position occupied by the invention in the art to which it pertains or which it creates (See, *MAC Corp of America v. Williams Patent Crusher and Pulverizer Co.*, 767".

See also CHI Research Paper, "*Pioneer Patents*" which are heavily cited by later patents, Vol. IV. No. 1, March 1995.

A patent with large numbers of citations may be entitled to broader claims because it has greatly advanced the state of the art. For as Judge Brewer stated in *Westinghouse v. Boyden Power Brake Company*, May 9, 1898, "The very term, 'pioneer patent' signifies that the invention has been followed by others. A pioneer patent does not shut, but opens the door for subsequent inventions.

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Declaration Under 37 CFR 1.195  
Regarding Pioneer Status

Docket No. 95-004M  
PATENT APPLICATION

The attached listing of 53 patents cited by the Examiners of the U.S.P.T.O. regarding the present system clearly confirms pioneer status which opened the door for subsequent inventions.

37 CFR 1.195 states that declarations after the case has been appealed will not be admitted without a showing of good and sufficient reasons why they were not presented earlier. Applicant researched the present complete listing of cited patents as of March 14, 2004 during the time period for which a Reply Brief is due.

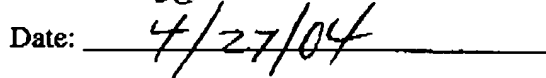
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful statements may jeopardize the validity of the application or any patent issued thereon.

Full Name of Inventor: Conrad O. Gardner

Inventor's signature:



Date:



## Enclosures:

Research Results for U.S. Patents

5,301,765

5,346,031

CHI Research Article, Vol. IV., No. 1 – March 1995

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Searching 1976 to present...

Results of Search in 1976 to present db for:

REF/5,301,764: 20 patents.

Hits 1 through 20 out of 20

 ref/5,301,764

| PAT.<br>NO.  | Title   |
|--------------|---|
| 1 6,554,088  | Hybrid vehicles   |
| 2 6,367,570  | Hybrid electric vehicle with electric motor providing strategic power assist to load balance internal combustion engine   |
| 3 6,338,391  | Hybrid vehicles incorporating turbochargers   |
| 4 6,209,672  | Hybrid vehicle  |
| 5 6,205,379  | Controller for hybrid vehicle wherein one and the other of front and rear wheels are respectively driven by engine and electric motor   |
| 6 6,064,937  | Compound cruise control system and method for solar cars  |
| 7 6,008,606  | Starting assistance device for a vehicle with a motor and dog-clutch control for transmitting a torque to idler wheels  |
| 8 6,007,443  | Hybrid vehicle  |
| 9 5,988,307  | Power transmission apparatus, four-wheel drive vehicle with power transmission apparatus incorporated therein, method of transmitting power, and method of four-wheel driving |
| 10 5,845,731 | Hybrid motor vehicle  |
| 11 5,704,440 | Energy distribution method for hybrid electric vehicle  |
| 12 5,667,029 | Drive system for hybrid electric vehicle  |
| 13 5,644,200 | Driving electrical machine speed controlled power combined system and device  |
| 14 5,627,438 | Pulsing control for an inertial drive system for a multi-motor binary array vehicle   |
| 15 5,574,340 | Electrical and electromagnetic rotary motor apparatus and method utilizing self-generated secondary electrical energy   |
| 16 5,558,173 | Integrated hybrid transmission with mechanical accessory drive  |
| 17 5,557,934 | Efficient energy conversion apparatus and method especially arranged to employ a stirling engine or alternately arranged to employ an internal combustion engine              |

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Searching 1976 to present...

Results of Search in 1976 to present db for:

REF/5,346,031: 33 patents.

Hits 1 through 33 out of 33



ref/5,346,031

| PAT.<br>NO.  | Title   |
|--------------|---|
| 1 6,692,405  | <a href="#">Power transmission apparatus for an automobile</a>  |
| 2 6,668,954  | <a href="#">Electric hybrid vehicle</a>   |
| 3 6,661,109  | <a href="#">Electric generating system for automobiles and its control method</a>   |
| 4 6,578,649  | <a href="#">Hybrid vehicle</a>  |
| 5 6,554,088  | <a href="#">Hybrid vehicles</a>   |
| 6 6,481,516  | <a href="#">Electric hybrid vehicle</a>   |
| 7 6,440,036  | <a href="#">Power transmission apparatus for an automobile</a>  |
| 8 RE37,743   | <a href="#">Distributed differential mixing combined power system</a>   |
| 9 6,394,209  | <a href="#">Motor vehicle serial hybrid drive for I.C. engine operated only at or near full load</a>  |
| 10 6,383,114 | <a href="#">Hybrid vehicle control apparatus having a device for synchronizing friction members of one of two clutches corresponding to one of two different neutral states</a> |
| 11 6,367,570 | <a href="#">Hybrid electric vehicle with electric motor providing strategic power assist to load balance internal combustion engine</a>   |
| 12 6,338,391 | <a href="#">Hybrid vehicles incorporating turbochargers</a>   |
| 13 6,328,670 | <a href="#">Power transmission apparatus for an automobile</a>  |
| 14 6,234,932 | <a href="#">Control apparatus for a hybrid vehicle</a>  |
| 15 6,209,672 | <a href="#">Hybrid vehicle</a>  |
| 16 6,205,379 | <a href="#">Controller for hybrid vehicle wherein one and the other of front and rear wheels are respectively driven by engine and electric motor</a>                           |
| 17 6,142,907 | <a href="#">Power transmission apparatus for an automobile</a>  |
| 18 6,098,733 | <a href="#">Hybrid drive system for motor vehicle</a>   |
| 19 RE36,678  | <a href="#">Hybrid vehicle</a>  |
| 20 6,044,922 | <a href="#">Electric hybrid vehicle</a>   |

<http://patft.uspto.gov/netacgi/nph-Parser?Sect1=PTO2&Sect2=HITOFF&u=%2Fnetathtml%2...> 3/14/04

- 21 6,008,606 ■ Starting assistance device for a vehicle with a motor and dog-clutch control for transmitting a torque to idler wheels
- 22 5,992,153 ■ Power unit for a vehicle
- 23 5,823,282 ■ Hybrid vehicle with oil pump selectively driven by the engine, a generator or a motor
- 24 5,788,004 ■ Power control system for motor vehicles with a plurality of power-converting components
- 25 5,785,137 ■ Hybrid electric vehicle catalyst control
- 26 5,704,440 ■ Energy distribution method for hybrid electric vehicle
- 27 5,673,939 ■ Fuel tank for storing and dispensing hydrogen and oxygen gas to a fuel cell
- 28 5,667,029 ■ Drive system for hybrid electric vehicle
- 29 5,658,013 ■ Fuel tank for vehicles for holding and dispensing both a liquid and gaseous fuel therein
- 30 5,588,498 ■ Electric hybrid vehicle
- 31 5,562,566 ■ Distributed differential mixing combined power system
- 32 5,513,719 ■ Hybrid vehicle
- 33 5,469,816 ■ Control mechanism for an electric generator motor in an internal combustion engine
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## CHI'S RESEARCH

Vol. IV, No. 1 - March 1995  
(Reformatted March 2002)

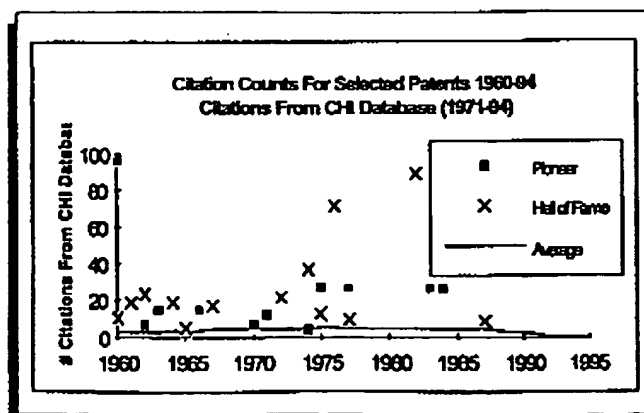
An informal, periodic newsletter to keep our clients and colleagues informed of interesting findings at CHI Research.

### 'Pioneer Patents' are Heavily Cited by Later Patents

In a series of published papers CHI has shown that technologically important patents tend to be much more highly cited than average patents. We have now extended that finding to legally important patents, by showing that patents designated as 'Pioneer patents' by the courts also tend to be much more highly cited than average patents. Furthermore, in a similar analysis we have found that patents in the National Inventors Hall of Fame are also cited much more than average.

Pioneer patents are patents which the courts have found to be so groundbreaking that they deserve a wide breadth of protection in construing their claims and specifications. Hall of Fame patents are U.S. patents selected by a committee of representatives from national scientific and technical organizations.

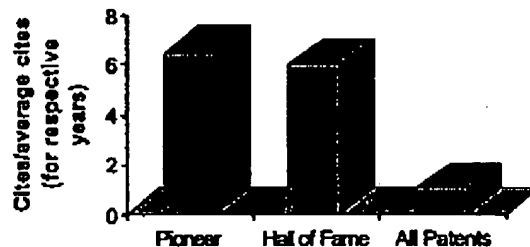
The graph below shows the number of citations received since 1971 for Pioneer and Hall of Fame patents issued since 1960; the solid line shows the number of citations an average patent has received since 1971. (1971 is the first year that patent citation data are available in machine readable form.) All of the Hall of Fame patents, and all but two of the Pioneer patents have been cited more than expected, and several have been cited more than 20 times, including S.D. Stookey's 1960 patent "Method of making Ceramics and Product Thereof" with 96 citations since 1971. Stookey's patent has 93 more citations than the average 1960 patent and continues to be cited by recent patents, including 4 patents issued in 1994.



Further, we have found that the citations are rather evenly distributed among later patent years; the citations accrue steadily, and do not suddenly accumulate after a patent is designated as a Pioneer or Hall of Fame patent.

The summary histogram shows that on average, Pioneer patents are cited 6.6 times as frequently as expected, and Hall of Fame patents 6.3 times the expected rate.

Citation Indices for Selected Patents  
Patents Granted 1960-94  
Citations from 1971-94



### The Implications

- This is further evidence that important patents tend to be highly cited by later patents.
- Citation analysis may provide solid evidence for use in patent infringement cases.
- A patent with large numbers of citations may be entitled to broader claims because it has greatly advanced the state of the art. For as Justice Brewer stated in *Westinghouse V. Boyden Power Brake Company* May 9, 1898, "The very term, 'pioneer patent' signifies that the invention has been followed by others. A pioneer patent does not shut, but opens the door for subsequent inventions."



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### For More Information

If you would like additional information about CHI's products and services, please complete the form below and fax back to CHI, or e-mail your request to: [info@chiresearch.com](mailto:info@chiresearch.com)

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### Areas of Interest:

- ☐ Competitor Assessments
- ☐ Core Competency Self Assessments
- ☐ R&D Productivity Assessments
- ☐ Cross Licensing Support
- ☐ M&A Targeting
- ☐ M&A Technological Due Diligence
- ☐ Investment Databases
- ☐ Technology Tracing in Three-Planes

- ☐ Domain Mapping
- ☐ Hot-Spots Identification
- ☐ Critical Technologies
- ☐ Science & Technology Linkage (Critical Sciences)
- ☐ National & Regional Strength
- ☐ Technology Transfer & Dependencies
- ☐ Company Profiles
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